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COMMITTEE ON THE RIGHTS OF THE CHILD

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SUMMARY RECORD OF THE 463rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 May 1998, at 10 a.m.

Chairperson: Mrs. KARP

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES (agenda item 4) (continued)

Initial report of Japan (CRC/C/41/Add.1; CRC/C/A/JAP/1; CRC/C/Q/JAP/1; written replies by Japan to questions raised in the list of issues (document without a symbol circulated in the meeting room, in English only))

1. At the invitation of the Chairperson, Mr. Akao, Mr. Kaitani, Mr. Katsuura, Mr. Takebayashi, Mr. Inada, Mr. Hisashi Hayashi, Mr. Kazuharu Hayashi, Mr. Yoshida and Mr. Goto (Japan) took places at the Committee table.

2. Mr. AKAO (Japan) said that his country had signed the Convention on the Rights of the Child in 1990 at the time of the World Summit for Children. Following the World Conference on Human Rights held at Vienna in 1993, his Government had started working on a review of existing laws and systems to ensure that they were consistent with the Convention. The Convention had been ratified on 22 April 1994 and had come into force on 22 May of the same year.

3. The protection of children entailed a full understanding of the purposes of the Convention, and it was therefore necessary that the measures taken to achieve those purposes should be constantly reviewed and improved. The Committee on the Rights of the Child had a special role to play in that connection. In Japan, the Government, local communities and families were more and more aware of the rights of the child and spared no effort to create an ideal environment in which children could flourish.

4. Having ratified the Convention, his Government had stepped up social protection measures for children in various ways, and in particular efforts to combat bullying, abuse and sexual exploitation of children, while endeavouring to safeguard the best interests of the child.

5. Measures for the implementation of the Convention covered welfare and education and involved many administrative bodies, including the Management and Coordination Agency, the Ministry of Health and Welfare, the National Police Agency, the Ministry of Justice, the Ministry of Education and the Ministry of Labour. The Management and Coordination Agency was responsible for formulating policies concerning youth affairs and coordinating measures carried out by the ministries and agencies concerned.

6. In Japan, local authorities were obliged, under the Constitution, to abide by the Convention and were pursuing various activities (in such fields as welfare, education and civil liberties) to give it effect.

7. In 1994, "civil liberties commissioners for the rights of the child" had been introduced in order to monitor the rights of children embodied in the Convention, to prevent any violations of those rights and to take relief measures, in cooperation with the Legal Affairs Bureau, if they were violated. They were also responsible for promoting the organization of publicity campaigns on the protection of children's rights. In 1997, there had been 780 civil liberties commissioners for children's rights in Japan. They were being

consulted more and more in connection with cases of bullying (the number of such consultations had risen from 612 in 1994 to 2,654 in 1997). Many efforts were being made to improve the services provided by the Commissioners, who offered, for example, guidance on children's rights and a telephone counselling system and distributed circulars to children in each community.

8. Despite the serious difficulties Japan had to face as a result of the deterioration in its financial situation brought about by a falling birth rate combined with an ageing population and declining economic growth, the budget for youth programmes was steadily increasing.

9. He then described some of the improvements made in the measures taken in response to the guidance given by the Committee since the submission of the initial report.

10. His Government was pursuing its activities aimed at publicizing and promoting a better understanding of the principles and provisions of the Convention by means of brochures, posters and radio and television broadcasts. Recognizing the need to ensure implementation of the principle of "the best interests of the child", it had adopted in June 1997 a law partially amending the Child Welfare Law, under which parents and guardians were now able to choose day-care centres for their children and children's opinions were respected if they were put into child welfare facilities.

11. The Government was also preparing an amendment to an ordinance on fatherless families so that they could continue to receive an allowance even if the child was recognized by the father. That amendment was due to enter into force on 1 August 1998. Still on the principle of the best interests of the child, the immigration rules had been revised in July 1996 in order to facilitate the entry and residence in Japan of a foreign parent (the other being Japanese), whether or not the child was born in wedlock.

12. The Japanese Government had taken steps to promote children's participation in accordance with article 12, one of the most important provisions in the Convention. Children had a chance to express their views when recreation programmes were being planned. A "Children's Diet" had been held under the sponsorship of the House of Councillors in July 1997, with the participation of 250 elementary and secondary school pupils. A declaration had been published as the outcome of the discussions.

13. In recent years, the environment in which children lived had changed (growing urbanization, increase in the number of nuclear families) and the number of consultations on child abuse was steadily increasing. His Government had therefore reviewed some provisions of the Child Welfare Law to strengthen assistance to children and families. Doctors were now required to report abused children and child guidance centres were obliged to protect children and remove them from their families if necessary.

14. The mortality rate for babies and infants in Japan was 3.8 per 1,000 live births, and practically all children received compulsory education. However, changing lifestyles had led to a revival in juvenile delinquency. In response to that situation, the Prime Minister had undertaken to take steps to deal with the problem. Japan was faced above all with an increase in violence

in schools. The Government was trying to tackle a problem with complex causes by various measures at different levels. In view of the growing number of young people receiving guidance or protection in connection with drug abuse, the Headquarters for the Promotion of Measures against Drug Abuse, headed by the Prime Minister, had in April 1997 adopted two measures to prevent drug abuse and provide education on the subject in schools. In 1997, about 10,000 schools (or 90 per cent of the total number of high schools) had held classes on the prevention of drug abuse.

15. Following the World Congress against Commercial Sexual Exploitation of Children held at Stockholm in August 1996, the Government had launched a campaign to raise awareness among the public with a view to eliminating child prostitution and child pornography. A government team set up in June 1997 to combat those phenomena had drafted a bill in April 1998 including punitive measures for Japanese nationals involved in such activities inside and outside Japan and measures to protect children who were victims of such acts. The bill had been submitted to the Diet at the beginning of May 1998.

16. In that area, it was necessary to strengthen international cooperation among law enforcement bodies. Japan had been actively participating in various international activities aimed at stopping the sexual exploitation of children in the United Nations and the G8 Senior Experts Group on Transnational Organized Crime. It was also cooperating with the International Criminal Police Organization (INTERPOL), which was very active in that field.

17. Summing up, he recognized that Japan was facing serious problems in seeking to ensure the well-being of its children. In order to tackle them, it was necessary to identify their root causes, analyse them and take all the necessary measures. In addition, not just the Government, but also families, schools, local communities and the mass media had to acknowledge the important responsibility they bore for protecting children and should not spare any effort to ensure respect and protection for children's rights. His delegation was ready to enter into a constructive dialogue in order to pursue ongoing activities in that field and formulate new measures for the protection of children.

18. The CHAIRPERSON thanked the Japanese delegation for its detailed statement and noted with satisfaction the changed attitude in Japanese society towards children born out of wedlock and the new bill on sexual exploitation of children. She invited members of the Committee to put questions to the large delegation which had come from Japan.

19. Mrs. SARDENBERG welcomed the new information provided by Mr. Akao in his statement. Since child welfare seemed to be a matter of major concern to Japan, she regretted the very legal nature of the report submitted (CRC/C/41/Add.1), in which specific data on the situation of children were lacking, and asked how the Japanese Government conceived of the transition from the concept of the protection of the child to that of the child as a subject of law. It would be interesting to carry out a survey to find out whether Japanese children (at school or in the street) were aware of the Convention's existence.

20. She went on to ask why it had been necessary for four years to elapse between the signature of the Convention and its ratification. Was that due to problems of compatibility with domestic legislation, or to resistance on the part of society or the Government?

21. She would also like to know if all sectors of society had been involved in the preparation of the report. Had the Japanese Government circulated the report in Japan and did it intend to publicize the Committee's conclusions and recommendations, e.g. by organizing a press conference on the subject? She welcomed the high-level and multidisciplinary nature of the Japanese delegation, but thought it deeply regrettable that it included so few women. Finally, she also thought it would be helpful to know whether there was any coordination body responsible for the application of the Convention and whether any specific machinery for collecting information on policies for children had been set up.

22. Mr. FULCI said that in general the report was a good one and met the Committee's wishes. It did not make it clear, however, what the legal status of the Convention was in Japanese law or how it was supposed to be incorporated into domestic legislation. The question was an important one, because the implementation of the Convention and the possibility of invoking its provisions before the courts depended on its legal status. His impression was that in Japan the Convention prevailed over ordinary law, but that the courts were not applying it very actively. He asked whether the Convention applied directly in domestic law. Was there any domestic case history in that area?

23. In 1994, "civil liberties commissioners for children's rights" had been appointed to safeguard children's rights, and in particular those set forth in the Convention. He welcomed that administrative measure, but thought that a mediator should also have been appointed with the exclusive task of protecting children's interests. The commissioners were not independent and did not seem to have enough financial resources to perform their duties. NGOs claimed that some commissioners had not been given all the necessary training on children's rights. Finally, despite the publication of a brochure on the subject by the Ministry of Justice, it seemed that children did not understand the commissioners' role. For the Committee, it was essential that truly independent machinery should be set up: a children's mediator, who would report directly to the Parliament. What was the Japanese Government's assessment of the commissioner system it had set up? Had it contemplated establishing a proper post of mediator responsible for ensuring compliance with the Convention?

24. As far as cooperation with NGOs was concerned, he noted that a large number of them were participating in the Committee's work, which constituted a highly encouraging sign of political maturity. That said, some of them were of the opinion that the Government had not been especially keen to involve the people in the preparation of the report and had not taken any notice of many proposals they had made. Had there been a thorough debate on the report with the NGOs? What did the delegation think of the statement by the Federation for the Protection of Children's Rights that many of their suggestions had not

been taken into consideration? How did the delegation assess the cooperation between the Government and NGOs concerned with the defence of children's rights?

25. Mrs. PALME welcomed the fact that since the submission of the report the Japanese Government had submitted a bill on the sale of children, child prostitution and child pornography. Like Mr. Fulci, she would like to know whether the Convention was applied directly in Japanese law. The NGOs had a very important role to play in the implementation of the Convention and should be given greater resources so that they could collaborate more closely with the Government. She noted that in the field of the rights of the child, Japan was already giving substantial financial aid to countries that needed it. She wondered whether Japan intended to increase such official international assistance.

26. Mr. RABAH asked whether Japan planned to withdraw the reservation it had entered to article 37 (c) of the Convention. He also wondered whether domestic law, and in particular the Constitution, was fully compatible with all its provisions. Had the Convention been translated into minority languages, and what was the Japanese authorities' attitude on that matter? Was there any discrimination against minorities, in particular the Korean minority, in matters of education, health care, etc.?

27. Was it planned to organize, in conjunction with the many NGOs operating in the field, training programmes for judges, lawyers and social workers, for example, so as to make them more aware of the principles stated in the Convention? Did the media, and particularly television, put out broadcasts for children to explain to them what their rights were?

28. The CHAIRPERSON returned to the question of Japan's reservation concerning article 37 (c) of the Convention. She understood that the reservation had been entered because the Japanese authorities wanted to provide more protection for children in the system of minors' justice. Under article 2 of the Minors' Code any person aged less than 20 who was deprived of his liberty had to be separated from prisoners aged 20 or more. In her view, that situation could be regarded as contrary to the Convention which required children to be separated from adults, and that was not the case if persons aged 18 and 19 were not separated from those under 18, who were children within the meaning of the Convention. The reservation gave the impression that Japan did not accept the idea of separation, which was surely not its intention. It would have been preferable just to make a statement with respect to article 37 to the effect that for the purposes of deprivation of liberty persons aged 18 and 19 did not count as adults.

29. As far as the legislation on decentralization of medical services was concerned, how could the Japanese authorities guarantee that the services available to children were of the same quality as those that would have been provided by the Government? Was any check kept on the quality of the services provided by local authorities?

30. In conclusion, she asked what measures had been taken to coordinate the activities of ministries to which budgetary appropriations had been allocated for children's affairs. What share of the budget was earmarked for promoting children's involvement in education and society?

30. Mr. AKAO (Japan) said that the preponderance of men in the Japanese delegation was pure coincidence. There were many women occupying senior positions in the Japanese civil service, and more and more young women were choosing to make it their career.

31. On the question of the reasons why Japan had not ratified the Convention until four years after signing it, he explained that various questions had had to be resolved in order to ensure that there was complete consistency between the Convention and domestic law. Problems of terminology had arisen. Thus, in the light of the legislation on the age of majority, it had been necessary to determine whether the term "child" was to be translated "gido" or "kodomo". It had also been necessary to make sure, for example, that the provisions of the Convention were not incompatible with Japanese rules on school uniforms. Many questions had also arisen with regard to the right to inherit of children born out of wedlock, to disabled persons and to the treatment of minors.

32. Mr. KAITANI (Japan) said that the Government and local authorities had spared no effort to inform the whole Japanese population, including children, about the Convention. The Ministry of Foreign Affairs, for example, had produced a million posters on the Convention, which had been distributed in schools, and it would produce 100,000 more in 1998. In cooperation with the UNICEF Office in Japan, it had also prepared booklets, which had been circulated to all offices and services concerned with children. Local authorities had launched awareness campaigns - publishing calendars, for example, on the theme of the Convention and organizing seminars in primary and secondary educational institutions. Education councils had issued children not just with leaflets, but also with cards showing the steps to be taken in order to make a complaint and giving the addresses of guidance centres.

33. Regarding cooperation with NGOs, he said that Japan's report (CRC/C/41/Add.1) had been drawn up by the competent ministries and agencies under the coordination of the Ministry of Foreign Affairs and in cooperation with the NGOs concerned, whose opinions had been taken into account. At their proposal, the authorities had not confined themselves to outlining the legal framework, but had also dealt with the practical application of the Convention, particularly articles 19, 28 and 34, and the present situation of children. The Government thought it necessary and useful to involve civil society in the implementation of the Convention. To that end, it did not hesitate to call upon NGOs' expertise, to consult them and to subsidize certain of their projects.

34. Under article 98, paragraph 2, of the Constitution, the Convention had force of law. Although no specific provision had been drafted to that effect, it was understood that the Convention took precedence over domestic law. It had happened that it had been invoked before the courts, but none of them had explicitly referred to it in giving the reasons for its decision. When the Convention had been ratified, the Legal Affairs Bureau had examined it carefully to see if it was consistent with domestic legislation. The

Government had entered only one reservation, to article 37 (c) of the Convention, the reason being that under Japanese law the age of majority was 20. In his view, that meant still better protection for children's interests, because children in custody were separated from adult prisoners up to the age of 20, instead of 18 as required by the Convention. The Constitution, moreover, made the child a subject of law.

35. The text of the Convention was available in Japanese and English only, information leaflets and booklets being circulated solely in Japanese. The Government could, nevertheless, at the request of local authorities, obtain translations into other languages from foreign Governments. It had thus obtained copies in Portuguese and Tagalog. As far as the training of groups professionally concerned with children's rights, the Government was making arrangements to teach the provisions of the Convention to judges, lawyers, human rights officials, etc. Finally, despite budgetary restrictions, Japan remained one of the main providers of official development assistance, a large part of which was devoted to social programmes. Since the World Summit for Social Development, Japan's contribution in that field, particularly with regard to child health, had increased by about 20 per cent a year. Japan also supported international organizations such as UNICEF, to which it had just made a slightly increased contribution.

36. Mr. TAKEBAYASHI (Japan) said that the Management and Coordination Agency was responsible for drawing up guidelines and coordinating measures taken for the benefit of young people by the many agencies and ministries. A Committee for the Promotion of Youth Policy had also been set up; it was composed of senior officials and had five subcommittees. The Management and Coordination Agency published an annual report on children, which was based on information collected by the different ministries and agencies. In 1997, 8.6 per cent of the national budget had been devoted to services for children.

37. Mr. Hisashi HAYASHI (Japan) recognized that the question of the independence of the civil liberties commissioners for the rights of the child needed to be looked into. For the time being, the commissioners, who had been appointed in all the regions, came under the Ministry of Justice. In March 1997, the Ministry had set up a committee to deal with violations of children's liberties and civil rights. On the question of whether the budget for the commissioners was adequate, he said that a total of 14,449,000 yen had been allocated to them in 1998. The commissioners were voluntary workers who operated at homes or regional or district legal affairs bureaux. He admitted that the system ought perhaps to be reviewed, but noted that the commissioners knew a great deal about the field of children's rights and that they often organized lecture tours with a view to making those rights better known. The bodies responsible for public liberties in the Ministry of Justice, for their part, had prepared and distributed tens of thousands of booklets telling people about the Convention.

38. School bullying was a matter to which the authorities were giving attention; telephone lines were open for children wishing to report harassment at school. The lines were widely used.

39. As far as cooperation between the Government and NGOs was concerned, there were consultation centres at which representatives of different

associations could meet judges and other professionals who were concerned with publicizing the Convention, particularly in educational institutions. At the regional and local levels, there were many committees, education councils, local authorities, teachers' associations and press bodies concerned with promoting children's rights. Every municipality had a civil liberties commissioner, who arranged his promotion activities in the light of local conditions. The Committee might think that was not enough, and he would willingly agree, but such activities were in fact being conducted successfully, and he was at the Committee's disposal for any further information that might be required.

40. Mr. YOSHIDA (Japan) said that the Japanese Ministry of Education was the administrative body which decided on the content of school textbooks and programmes, but that specific teaching activities were managed by local authorities and town councils. The Ministry gave teachers guidelines, but had no direct influence over them. It tried to work through the local authorities in order to promote the rights of the child.

41. With regard to the rights of foreigners, particularly Korean residents, he wished to make it clear that foreigners who wished to do so could enrol their children at Japanese schools, where they were treated exactly like Japanese children. They enjoyed the same advantages, in particular free education and textbooks in primary and secondary schools. Where there was a strong concentration of foreigners in the school system, the education council or department responsible could decide to authorize teaching in the language of the group concerned. It was even possible for foreigners wishing to do so to set up a special school providing education in their language.

42. The content of the Convention was explained mainly in social affairs lessons. There were some 49 sociology textbooks which referred to the Convention. The subject might also be dealt with indirectly in some 15 other subjects. Teachers' training was not the responsibility of the Ministry, but of education councils. However, the Ministry endeavoured to make sure that its policies were followed throughout the country and sometimes itself organized training courses for teachers, particularly on the protection of the rights of the child.

43. Mr. GOTO (Japan) said, with regard to the differences that could exist in health services at the local level, that decentralization was applied in Japan in the various sectors of the administration. That enabled local authorities to take greater advantage of specialist assistance in carrying out their policies. The basic principle was that local authorities and town councils were closest to local communities and best placed to provide them with facilities such as health care and social services. The laws had been revised along those lines, in order to facilitate the development of the administration. It was open to local authorities to have their own programmes in the light of their own specific situations, which was a perfectly respectable approach. On the other hand, for basic services, such as medical check-ups for newborn babies and special care for children who were handicapped or suffering from serious illnesses, uniformity was essential. Such services had to be available to everyone throughout Japan. That was national policy, and steps had been taken to ensure that such uniformity would be maintained in future years.

44. Mr. KAITANI (Japan) said that the text of the initial report, under the cover of a press communiqué, had been published in 3,000 copies and distributed to interested parties, including NGOs, deputies, etc. The summary records of the Committee's meetings and its final comments would also be circulated to NGOs, the public at large and politicians who were concerned with children's welfare.

45. The CHAIRPERSON said she had the feeling that the Japanese delegation had not quite answered the question about the machinery for collecting statistics. Without going into technical details, the point was to find out whether the indicators adopted not only showed whether children were in fact exercising their rights, but also made it possible to identify areas in which their rights were being violated, so that the situation with regard to the implementation of the Convention could be assessed. She did not think, either, that the Japanese delegation had given a direct answer to the question of whether the Government intended to establish a post of mediator expressly entrusted with the task of monitoring the implementation of the Convention. What special training did civil liberties commissioners have to undergo in order to be appointed? Did they have special powers with regard to the consideration of complaints, the carrying out of investigations and the gathering of information? Could they enter into a dialogue with the authorities against which complaints had been made? She for her part doubted whether such powers were given to mere voluntary workers. She would also like to know how the Government assessed its present cooperation with NGOs and whether such cooperation was likely to be expanded. Finally, were budgetary resources specifically allocated to promote the involvement of children in the preparation of measures that concerned them?

46. Mr. KAITANI replied that the Japanese authorities, not being sure that they understood what the Committee meant by "indicator", had approached the Australian Government to find out how it had interpreted that term when preparing its own report. To give a specific example of the way in which data were used in Japan, he mentioned the case of the Ainu people, who had been the subject of four successive surveys in the prefecture of Hokkaido. Those inquiries had revealed the fact that 87.4 per cent of Ainu children were enrolled in secondary school and only 11.8 per cent at university. The figures for the rest of the population were 96.7 per cent at the secondary level and 27.5 per cent at the university level. In the light of the gap thus revealed, Hokkaido Prefecture had announced that steps would be taken to improve the level of education and living conditions for the Ainu people. Assistance had been targeted more specifically at students in higher education. Welcoming that type of initiative, the Japanese Government had endeavoured to release budgetary allocations to subsidize those activities. As to the particular question of the amount of budgetary resources that would be needed to apply the Convention, the necessary information was unfortunately not yet available.

47. Mr. Hisashi HAYASHI, referring to the question of the civil liberties commissioners and the mediator, explained that the commissioners were selected to give advice on different subjects and that some of them were particularly competent in the area of the rights of the child. They could set up organizations in their respective regions. The system gave them certain powers to launch the necessary activities. On the other hand, Japan had no

post of mediator independent of the administration, and it was not at present planning to set up any new machinery of that kind. That was because any violation of human rights would lead to an investigation and the enforcement of the existing laws on the subject. In 1997, the Ministry of Justice had set up a council for the promotion of human rights, and it was the council that would be responsible for taking any measures aimed at prevention, particularly in the field of education. When it had completed its work in that field, it would envisage various measures to provide assistance or alleviate difficulties. There was a law specifying the procedure for the selection and removal from office of civil liberties commissioners, and their duties. They had no special powers and, since they were doing voluntary work, the law did not give them any special rights. The effectiveness of the system was under review. When they were selected, commissioners received some training with regard to their rights and responsibilities in relation to district legal affairs bureaux, but it was only in certain special cases, e.g. if a major problem arose in the field of the rights of the child, that they would be brought together for training related to the Convention.

The meeting rose at 1.05 p.m.